



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPA-2007-0042; FRL – 10002-57-OLEM]

Proposed Information Collection Request; Comment Request; The National Oil and Hazardous Substance Pollution Contingency Plan Regulation, Subpart J (40 CFR 300.900) (renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), “The National Oil and Hazardous Substance Pollution Contingency Plan Regulation, Subpart J (40 CFR 300.900)” (EPA ICR No. 1664.12, OMB Control No. 2050-0141) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2020. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OPA-2007-0042, online using www.regulations.gov (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA’s policy is that all comments received will be included in the public docket without

change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Wendy Hoffman, Office of Emergency Management, Regulations Implementation Division (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-564-8794; fax number: 202-564-2620; email address: hoffman.wendy@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments

received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This Information Collection Request (ICR) renewal supports activities to implement the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Subpart J (40 CFR 300.900), “Use of Dispersants and Other Chemicals.”

The use of bioremediation agents, dispersants, surface washing agents, surface collecting agents and miscellaneous oil spill control agents in response to oil spills in U.S. waters or adjoining shorelines is governed by Subpart J of the NCP regulation (40 CFR 300.900). Subpart J requirements include criteria for listing oil spill mitigating agents on the NCP Product Schedule, hereafter referred to as the Schedule. EPA’s regulation, which is codified at 40 CFR 300.00, requires that EPA prepare a schedule of “dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the NCP.” The Schedule is required by section 311(d)(2)(G) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990. The Schedule is used by Federal On-Scene Coordinators (FOSCs), Regional Response Teams (RRTs), and Area Planners to identify spill mitigating agents in preparation for and response to oil spills.

Under Subpart J, manufacturers who want to add a product to the Schedule must submit technical product data to the U.S. Environmental Protection Agency (EPA or Agency) as stipulated in 40 CFR 300.915. Subpart J requires the manufacturer to conduct specific toxicity and effectiveness tests and submit the corresponding technical product data along with other detailed information to the EPA Office of Emergency Management, Office of Land and Emergency Management. For example, a dispersant must exceed the 50 percent (± 5 percent)

efficacy threshold in order to be listed on the Schedule. EPA places oil spill mitigating agents on the Schedule if all the required data are submitted and the product satisfies all requirements and meets or exceeds testing thresholds. The Schedule is available to FOSCs, RRTs, and Area Committees for selecting the most appropriate products to use in various spill scenarios.

As of June 2016, 117 products were listed on the Schedule. In the previous ICR renewal, EPA estimated that 11 products per year would be submitted to EPA for listing on the Schedule during the renewal period. Over the three-year period covered by the current ICR (2016 through 2019), EPA estimated that a total of 11 products would be listed annually. Additionally, EPA estimated that approximately 10 manufacturers would submit information to obtain sorbent certifications. The annual public reporting burden was estimated to be 315 hours. The total annual cost (including labor and non-labor) to manufacturers under Subpart J was estimated to be \$89,590.

At 40 CFR 300.920(c), respondents may claim certain information in the technical product data submissions as confidential business information. EPA will handle such claims pursuant to the provisions in 40 CFR Part 2, Subpart B. Such information must be submitted separately from non-confidential information, clearly identified, and clearly marked “Confidential Business Information.” If the applicant fails to make such a claim at the time of submittal, EPA may make the information available to the public without further notice.

Forms: None.

Respondents/affected entities: Respondents include, but are not limited to, manufacturers of bioremediation agents, dispersants, surface collecting agents, surface washing agents, miscellaneous oil spill control agents, and other chemical agents and biological additives used as countermeasures against oil spills. Affected private industries can be expected to fall within the following industrial classifications:

- Manufacturers of industrial inorganic chemicals (SIC 281/NAICS 325188),
- Manufacturers of industrial organic chemicals (SIC 286/NAICS 325199), and
- Manufacturers of miscellaneous chemical products (SIC 289/NAICS 325988).

Respondent's obligation to respond: A manufacturer who wants their product to be listed on the Schedule for use as oil spill mitigating agent in an emergency response to an oil spill must submit certain mandatory product testing and information to EPA for review for the product to be listed on the Schedule. (The Schedule is required by section 311(d)(2)(G) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990).

Estimated number of respondents: The previous ICR renewal estimated 21 respondents per year, including 10 sorbent product manufacturers. There were 99 manufacturers and 117 products (27 bioremediation agents, 18 dispersants, 16 miscellaneous oil spill control agents, 54 surface washing agents, and 2 surface collecting agents) listed on the Schedule as of June 2016. EPA estimates that manufacturers will apply to list 11 products on the Schedule each year, including 2 bioremediation agents, 3 dispersants, 2 miscellaneous oil spill control agents, 1 surface collecting agent, and 3 surface washing agents during this ICR renewal period. In addition, EPA estimates that 10 manufacturers will apply to list sorbent products (one per manufacturer). Over the three-year period, EPA anticipates that manufacturers will apply to list a total of 6 bioremediation agents, 9 dispersants, 6 miscellaneous oil spill control agents, 3 surface collecting agent, 9 surface washing agents and 10 sorbents on the Schedule. These figures will be updated as needed during the 60-day OMB review period.

Frequency of response: Each manufacturer responds once per product submittal.

Total estimated burden: 315 hours (per year). This figure will be updated as needed during the 60-day OMB review period. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$89,590 (per year), including \$72,450 annualized capital or operation &

maintenance costs. These figures will be updated with the most recent available wage rates from BLS and to account for any changes in O&M costs, burden and number of respondents.

Changes in Estimates: The above burden estimates are based on the current approved ICR. In the final notice for the renewal ICR, EPA will publish revised burden estimates based on updates to respondent data and unit costs. The revised burden estimates may increase or decrease from the current ICR based on the number of products added to the Schedule during the past ICR renewal period, and EPA's adjusted estimates for the number of products the Agency anticipates may be added to the Schedule during the upcoming ICR renewal period. Any change in burden will be described and explained in this section when the updated ICR Supporting Statement is completed during the 60-day OMB review period.

Dated: November 18, 2019.

Reggie Cheatham, Director,
Office of Emergency Management.

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